

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**MICHAEL A. REHFELDT *ex rel.* UNITED
STATES OF AMERICA AND THE STATE
OF TEXAS,**

Plaintiff,

v.

**VITAS HEALTHCARE CORPORATION,
VITAS INNOVATIVE HOSPICE CARE OF
SAN ANTONIO, LP, WELLMED MEDICAL
MANAGEMENT, CARE LEVEL
MANAGEMENT, LLC, INSPIRIS, INC.,
INSPIRIS HOSPICE, LLC, JUSTO
CISNEROS AND KEITH BECKER,**

Defendants.

Civil Case No. 3-09-CV-0203-B

SUGGESTION OF FAILURE TO COMPLY WITH COURT ORDER

Defendants Inspiris, Inc., Inspiris Hospice, LLC, and WellMed Medical Management (collectively “Defendants”) respectfully suggest that this Court should dismiss the complaint against defendants Care Level Management, LLC and Dr. Justo Cisneros for the Relator’s failure to comply with this Court’s Order to serve all defendants by March 9, 2012, and they would respectfully show as follows:

1. Relator filed his original Complaint on January 30, 2009. (Dkt. #1). Nearly three years later, the United States and State of Texas both declined to intervene in this action. (Dkt. #35, 38). On November 9, 2011, this Court unsealed the lawsuit and ordered Relator to serve on all Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure. (Dkt. #41). Thus, Relator had until **March 9, 2012** to serve all Defendants. FED. R. CIV. P. 4.¹

¹ In response to the Court’s order of December 27, 2011 (Dkt. #42), the Relator provided a status report to the Court on January 27, 2012, wherein he stated that he expected service to be completed by March 9, 2012. (Dkt. #43).

2. In fact, Relator served no Defendants by March 9, 2012. Defendants Inspiris Hospice LLC, Inspiris Inc, WellMed Medical Management were never served or contacted by the Relator regarding service. Rather, these defendants made a voluntary appearance and filed a motion to dismiss.² (Dkt. #44). Defendants Vitas Healthcare and related entity and Keith Becker filed an agreed motion to extend time for Relator to serve them until June 30, 2012. (Dkt. # 49).

3. Finally, it appears, based on the docket sheet and the lack of any return of service being filed with the Court, that Defendants Care Level Management, LLC³ and Justo Cisneros have never been served or contacted by the Relator regarding service. As such, Defendants respectfully suggest that Defendants Care Level Management, LLC and Justo Cisneros should be dismissed by this Court for the Relator's failure to comply with this Court's Order (Dkt. #41) to serve all defendants by March 9, 2012.

CONCLUSION

For all of the foregoing reasons, Defendants respectfully suggests that Defendants Care Level Management, LLC and Justo Cisneros should be dismissed by this Court for the Relator's failure to comply with this Court's Order (Dkt. #41) to serve all defendants by March 9, 2012.

² Rather than respond to the motion to dismiss, Relator filed a voluntary dismissal as to these defendants. (Dkt. #52).

³ Relator's Complaint incorrectly alleges that Care Level Management, LLC ("CLM") is somehow owned and/or operated by Inspiris. In fact, Inspiris has never held any ownership in this entity. Rather, Inspiris purchased some of CLM's assets (and none of its debts) out of a bankruptcy estate sale. The bankruptcy matter is *In re Care Level Magt. Group, LLC et al.*, No. 1:08-bk-12913MT, in the United States District Court, Central District of California.

Dated: April 16, 2012

Respectfully submitted,

FISH & RICHARDSON P.C.

By: */s/ Victor C. Johnson*
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Counsel for Defendants Inspiris, Inc., Inspiris
Hospice, LLC, and WellMed Medical
Management

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served upon all counsel of record on April 16, 2012:

/s/ Victor C. Johnson

Victor C. Johnson